

NO. 2001-1433-3

**INDEPENDENT STATE AUDITOR'S REPORT
ON CERTAIN ACTIVITIES OF THE
ESSEX SHERIFF'S DEPARTMENT**

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INTRODUCTION

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The Essex Sheriff's Department was established as an independent agency by Chapter 300 of the Acts of 1998, "An Act Abolishing the County Governments of Hampshire, Essex, and Berkshire Counties, and Transferring Essential County Functions to the Commonwealth." This act, which abolished Essex County government, stipulated that the Sheriff would retain administrative and operational control over the department, the jail, and the Lawrence Correctional Center. The department has facilities in Middleton, Lawrence, and Salisbury, where approximately 1,400 inmates are located. The Office of the State Auditor conducted an audit of the department for the period July 1, 1999 to April 30, 2001. The objectives of our audit were to review and assess internal controls over financial and program operations, fixed assets, inmate accounts, and civil processing accounts; to determine compliance with applicable laws, rules, and regulations; and to follow-up on the resolution of issues pertaining to the department identified during our review of the abolition of Essex County.

AUDIT RESULTS

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1. PRIOR AUDIT REPORT ON THE ABOLITION OF ESSEX COUNTY

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Our prior audit report on the abolition of the Essex County government and the transfer of its functions, assets, and liabilities to the Commonwealth disclosed certain issues regarding the control over inmates' funds and the retention of certain federal funds. Our follow-up review of these issues is as follows:

a. Controls over Inmates' Funds Improved

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Our prior review indicated that the department's main inmate bank account was not reconciled to its computerized inmate subsidiary ledger accounts and that the department's main inmate bank account reconciliation was limited to the inmate checkbook and bank account statements only. During our follow-up review, we determined that the department made the necessary revisions to its inmate subsidiary ledger software and inmate account tracking system in order to reconcile and properly account for inmate funds. Moreover, the department, for five consecutive months -- December 2000 to April 2001 -- reconciled its main inmate bank account with no variances.

b. Retention and Expenditure of State Funds Totaling \$1,070,123

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Our prior report revealed that the department improperly retained and expended more than \$1 million in funds received on account of the Commonwealth that were due the Commonwealth. Our follow-up review indicated that this condition had not changed. Specifically, during the period July 1, 1999 to April 30, 2001, the department received \$1,969,273 in revenues (reimbursements) from the federal

government and work release funds from prisoners that should have been deposited to the Commonwealth's General Fund. Of this total, the department retained and expended \$1,070,123 while depositing only \$899,150 to the General Fund. Our examination revealed that the department expended these amounts on capital improvements, fixed assets, and inmate programs and adhered to state procurement regulations. Nevertheless, the Commonwealth was not permitted the use of these funds and lost the opportunity to earn interest income.

2. CLARIFICATION NEEDED OVER THE RETENTION OF TELEPHONE COMMISSION REVENUES

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Our review noted that telephone commission revenues totaling \$1,111,688 were deposited into the department's Inmate Canteen Fund. Subsequent to the abolishment of the county government, we determined that this revenue may belong in the Commonwealth's General Fund. Chapter 29, Sections 1 and 2, of the General Laws state that revenue payable to the Commonwealth, unless otherwise specified, should be deposited into the Commonwealth's General Fund, whereas Chapter 127, Section 3, of the General Laws states that revenue from the sale of goods and services in correctional facilities may be expended for the general welfare of all inmates at the discretion of the Superintendent. As telephone commissions may meet the revenue criteria of both laws, legal classification is needed as to which law applies. Our examination further indicated that the department used telephone commission funds for the general welfare of the inmates.

3 INADEQUATE INTERNAL CONTROLS OVER CORPORATE CREDIT CARD USAGE

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During our audit we determined that the department lacked written operating procedures governing employee use of two American Express corporate credit cards; did not establish proper internal controls to ensure that its credit card charges were reasonable, necessary, and adequately supported as required by the State Comptroller. Based upon a listing of credit card charges provided to us, the department charged approximately \$43,500 to the American Express corporate credit cards for the period July 1999 to March 2001.

4. CLARIFICATION NEEDED OVER THE RETENTION OF CIVIL PROCESS FEES

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During our review, we determined that civil process fees are collected and paid to sheriffs and deputy sheriffs for serving legal papers and documents, such as summons, subpoenas, complaints, and writs. In accordance with Chapter 29, Section 2, of the General Laws, all revenue collected on behalf of the Commonwealth should be deposited into the General Fund unless the funds are required by law to be deposited elsewhere. Therefore, civil process fees that are the responsibility of the department to collect may need to be deposited into the General Fund rather than being retained and expended for departmental civil process operations.

INTRODUCTION

Background

Chapter 300 of the Acts of 1998 established the Essex Sheriff's Department as an independent state agency. This act provided for the abolition of Essex County government and the transfer of its functions to the Commonwealth. The act further stipulated that the Sheriff would retain administrative and operational control over the department, the jail, and the Lawrence Correctional Alternative Center. On November 16, 1999, Chapter 127 of the Acts of 1999 was passed. Section 53 of this act established Chapter 34B of the Massachusetts General Laws, Abolition of County Government, which clarified and changed previously abolished county legislation.

The Essex Sheriff, an elected official, is responsible for the care and custody of inmates at the Middleton Jail, the Lawrence Correctional Alternative Center, and the Women in Transition Pre-Release Program in Salisbury. There are approximately 1,400 inmates housed at the three facilities.

The department develops and maintains inmate programs, which are divided into four areas: educational, treatment, vocational, and ministry. Education programs include General Education Degree (GED), Title One, special education, computer literacy, and English as a Second Language (ESL) programs. Treatment programs include Substance Abuse Treatment Community for Offenders, alternative to violence, sex offender, counseling in parenting, counseling in anger management, reintegration, and habitual offenders programs. Vocational programs include barber school; heating, venting, and air-conditioning training; print shop training; and life skills training programs. Ministries programs include Catholic, Protestant, and interfaith denominational programs.

The department has three Community Correction Centers (CCC) located in Lawrence, Lynn, and Newburyport. The CCCs are day reporting centers for people assigned by the court system and provide services to people on parole that live and work in the community. The day reporting services include electronic monitoring; pre-employment training; GED and ESL programs;

comprehensive substance abuse programs; drug and alcohol testing; on-site Alcoholics Anonymous and Narcotics Anonymous meetings; HIV prevention and education programs; and community service and life skills training. Day reporting services also include a women's track component and a bilingual component for its substance abuse program. CCCs provide regular required reports to court probation offices about paroles.

The department is also authorized to perform civil process, such as issuance of court ordered summonses in Essex County.

Audit Scope, Objectives, and Methodology

In accordance with Chapter 11, Section 12, of the General Laws, the Office of the State Auditor has conducted an audit of the Essex Sheriff's Department for the period July 1, 1999 to April 30, 2001. Our review was conducted in accordance with applicable generally accepted government auditing standards. The objective of our review was to review and assess management controls over financial and program operations of the department and to review the accounting, reporting, and recording of program costs and expenditures to determine their appropriateness and reasonableness. The audit also included a review and examination of internal controls over all revenue streams, sources of funds, and inventory controls over equipment and supplies; compliance with applicable laws, rules, and regulations regarding financial and program activities; and a follow-up review on issues that were identified in our prior audit report (No. 2000-5073-3).

Our main objectives were to determine whether:

- Cash was adequately safeguarded, properly recorded, and documented to support transactions.
- Revenues had been properly accounted for and supporting documents were adequately controlled.
- Disbursements from state appropriations, special revenue funds, and other accounts were properly authorized, recorded, and adequately supported.

- Payroll transactions were accurately recorded, employees and their salaries were properly authorized and paid, all postings for leave time were properly accrued and recorded, and payments for overtime were properly documented and authorized.
- Property and equipment and supplies inventories were adequately safeguarded, recorded, and documented.
- Inmate funds and canteen funds were adequately safeguarded and recorded and disbursements were adequately controlled and recorded.
- Any other sources of funding, accounts, expenditures, or items identified during our review were properly recorded and adequately safeguarded.

We also conducted interviews with management and staff, and reviewed spending plans, fiscal monitoring reports, the department's organization plan, and prior audit reports. We also obtained and reviewed any policies and procedures that were in place, contracts, and accounting records and source documents. Based on our interviews and reviews, we performed an assessment of internal controls over financial and program operations at the department. Based on our review for the areas tested, except for the matters discussed in the Audit Results section of this report, the Essex Sheriff's Department had adequate internal controls over its financial and program operations and was in compliance with applicable laws, rules, and regulations.

At the conclusion of our field work, the results of our review were discussed with the Special Sheriff (Sheriff's designee), the Assistant Superintendent for Fiscal Affairs, the Assistant Superintendent for Procurement, and the Assistant Deputy Superintendent.

AUDIT RESULTS

1. PRIOR AUDIT REPORT ON THE ABOLITION OF ESSEX COUNTY

Our prior audit report on the abolition of the Essex County government and the transfer of its functions, assets, and liabilities to the Commonwealth disclosed certain issues regarding (a) controls over inmates' funds and (b) retention of certain federal funds.

a. Controls over Inmates' Funds Improved

Our prior review indicated that the Essex Sheriff's Department's main inmate bank account was not reconciled to the department's computerized inmate subsidiary ledger accounts and that the department's main inmate bank account reconciliation was limited to the inmate checkbook and bank account statements only. Other weaknesses included the department's inmate subsidiary ledger software not being programmed to provide a sum of all the inmate account balances, a cumbersome inmate account tracking system, and a second inmate bank account that lacked a list of rightful owners.

During our follow-up review, we determined that the department made the necessary revisions to its inmate subsidiary ledger software and the inmate account tracking system for its main inmate account. Moreover, the department for five consecutive months -- December 2000 to April 2001 -- reconciled its main inmate account without any variances. Lastly, its second inmate account was closed and its proceeds were forwarded to the State Treasurer in April 2000.

b. Retention and Expenditure of State Funds Totaling \$1,070,123

Our prior review revealed that the department did not forward any revenue it received on behalf of the Commonwealth to the State Treasurer from July 1, 1999 through September 30, 1999, contrary to Chapter 34B, Section 5, of the General Laws, which states, in part:

All assets, including revenue ... and such other revenue said county receives as of immediately before the transfer date shall become assets and revenue of the commonwealth. . . .

In response to our prior audit report, the department indicated that it had requested authority from the Office of the State Comptroller to open and maintain a retained revenue

account for federal reimbursement funds and work release funds. According to department representatives, the request for the retained revenue account was denied because the Comptroller believed that these funds were considered as general revenue received on behalf of the Commonwealth and therefore should be deposited into the Commonwealth's General Fund.

Our follow-up review disclosed that, contrary to state laws, and the Comptroller's opinion the department retained and expended more than \$1 million in funds received on account of the Commonwealth that were, therefore, due to the Commonwealth. Moreover, the department commingled funds with the work release inmates' account balances in the work release bank account. Funds were also wire transferred from the federal government to the work release bank account, and the Social Security Administration wire transferred funds to the department's Inmate Canteen Fund.

Summarized below are departmental federal government and work release inmate subsistence funds received during the period July 1, 1999 to April 30, 2001.

Receipt Description	Amount
Federal Reimbursement Funds:	
Housing Federal Inmates - Middleton Jail	\$1,185,434
Subsistence - Lawrence CAC	311,895
State Criminal Alien Assistance Program	262,794
Social Security Administration	95,800
Electronic Monitoring Program	67,253
Task Force Reimbursements (Drug Program)	18,890
Transportation of Federal Inmates (Court Appearances)	10,046
State Funds:	
Inmate Work Release - Room and Board Charges	<u>17,161</u>
Total Receipts	<u>\$1,969,273</u>

Our analysis of these receipts indicated that, of the total \$1,969,273, the department expended \$1,070,123 for capital projects, fixed assets, and inmate programs. As of April 20, 2001, the department transferred the remaining \$899,150 to the Commonwealth and continues to transfer receipts to the Commonwealth. Summarized below is a chart detailing the \$1,070,123 in expenditures.

Expenditure Description	Amount Expended
Work Release Program (e.g., gas, car repairs and inmate bag lunches)	\$ 311,895
Telephone Computer Project	226,317
Vehicle Purchases (6)	127,465
Jail Doors and Frames (Middleton)	65,500
Pavement - Correctional Alternative Center (CAC), Lawrence	53,043
CAC Shower Room	49,931
Clean and Sanitize Vents and Ducts (Middleton)	49,920
Inmate Programs	46,600
Electronic Monitoring Equipment	33,750
CAC Inmate Program Offices	31,632
CAC Gymnasium Roof	30,000
Office Panels, Chairs, and Lighting	20,675
Graffiti Truck Expenses, (i.e., lights and tarp)	9,620
CAC Annex Air Conditioning	7,100
CAC Cable Television Project	4,675
Rent (Community Correction Center)	2,000
Total Expenditures	<u>\$1,070,123</u>

During our follow-up review, representatives from the department stated that the Sheriff had decided to retain these funds and expend them on the aforementioned items because the Sheriff believed that these funds were for reimbursing costs previously incurred by the department, which was therefore entitled to keep these funds. Moreover, these representatives indicated that specific expenditures were made based upon its determination of critical project or purchase needs and that, since these funds represent reimbursements for prior expenditures, the department is not obligated to transfer the \$1,070,123 to the General Fund.

However, although our analysis indicated that the expenditures were, in fact, made on the projects and purchases noted, the practice of retaining and expending these revenues is contrary to Chapter 29, Section 1, of the General Laws, which defines state revenues as:

All income from state taxes, state agency fees, fines, assessments, charges, and other departmental revenues, retained revenues, federal grants, federal reimbursements, lottery receipts, court judgments and the earnings on such income. (emphasis added)

Further, Chapter 29, Section 2, of the General Laws states, in part:

All revenue payable to the commonwealth shall be paid into the general fund, except revenue required by law to be paid into a fund other than the general fund....

Recommendation

The department must continue to classify these receipts as General Fund revenue and transfer them to the General Fund in accordance with the General Laws.

2. CLARIFICATION NEEDED OVER THE RETENTION OF TELEPHONE COMMISSION REVENUES

Our review disclosed that, during the period July 1, 1999 through May 31, 2001, telephone commissions totaling \$1,111,688 were deposited into the Essex Sheriff's Department Inmate Canteen Fund.

When the department's activities were transferred to the Commonwealth, uncertainty existed as to which laws were applicable to the appropriate handling of the department telephone commissions and where they should be deposited. Currently, two General Laws govern how revenues at the department and other correctional facilities should be deposited. Chapter 29, Section 1, of the General Laws defines state revenues as:

All income from state taxes, state agency fees, fines, assessments, charges, and other departmental revenues, retained revenues, federal grants, federal reimbursements, lottery receipts, court judgments and the earnings on such income.

Further, Chapter 29, Section 2, of the General Laws states, in part, that:

All revenue payable to the commonwealth shall be paid into the general fund, except revenue required by law to be paid into a fund other than the general fund and revenue for or on account of sinking funds, trust funds, trust deposits and agency funds, which funds shall be maintained and the revenue applied in accordance with law or the purposes of the fund.

However, Chapter 127, Section 3, of the General Laws requires that:

Any monies derived from interest earned upon the deposit of such money and revenue generated by the sale or purchase of goods and services to persons in the correctional facilities may be expended for the general welfare of all the inmates at the discretion of the superintendent.

As telephone commissions may meet the revenue criteria of both these laws, it is unclear whether telephone commission receipts should be deposited into the General Fund or the Inmate Canteen Fund. As a result, clarification is needed as to which law applies.

Recommendation

The department should obtain legal clarification regarding the applicability of Chapter 29, Sections 1 and 2, and Chapter 127, Section 3, of the General Laws regarding the appropriate handling of telephone commission receipts.

3. INADEQUATE INTERNAL CONTROLS OVER CORPORATE CREDIT CARD USAGE

Our audit revealed that, during the period July 1999 to March 2001, the department lacked written operating procedures governing employee use of the two American Express Corporate credit cards and had not established proper internal controls to ensure that all credit card charges were reasonable, necessary, and adequately supported.

Based upon a departmental listing of credit card charges provided to us, the department charged approximately \$43,500 to its two American Express corporate credit cards. The two credit cards, one in the name of the Sheriff and the other in the name of the Assistant Superintendent of Fiscal Affairs, were to be used to pay for charges classified as training and training-related expenses, such as airline tickets or other travel, hotel rooms, car rentals, meals, and conference fees. Below is a summary listing of the American Express corporate credit card expenses:

Essex Sheriff's Department American Express Credit Card Expenditures July 1, 1999 to March 3, 2001		
Expenditure Classification		Amount Charged
Hotels/Lodging		\$13,225
Airfares		16,106
Meals/Restaurants		3,686
Car Rentals		1,613
Conference Fees		3,258
Other:		
Gas	\$ 591	
General Merchandise	1,607	
Car Repairs	698	
Travel Agency Fees	270	
Train Fares	239	
Software	249	
Parking Tickets	512	
Subscriptions/Publications	868	
Card Membership Fee	165	
Employee Awards	468	
Total Credit Card Expenditures		<u>5,667</u> <u>\$43,555</u>

All of the above examples of credit card charges were classified on the department listing as “training.” Moreover, although agency personnel stated that these charges were related to training, little, if any, supporting documentation was provided that clearly disclosed the kind of training involved, who authorized the training, who participated, and the official business purpose for these costs. Instead, the department’s supporting documentation primarily consisted of summary statements from the American Express account.

The Office of the State Comptroller’s Internal Control Guide, Chapter VII: Expenditure Controls, states, in part:

Purchases or commitments to purchase goods or services should be made only when there are appropriate approvals and adequate supporting evidence.

Orders and planned expenditures should be reasonable and realistic in light of the department’s needs. Expenditures for goods and services should meet, not exceed, the department’s needs.

Further, Chapter 647 of the Acts of 1989, An Act Relative to Improving the Internal Controls Within State Departments, sets forth the standards that should be established and incorporated in an internal control system at any department. The second standard, Recording of Transactions and Events, states, in part:

All transactions should be (1) promptly recorded, (2) clearly documented, and (3) properly classified. Documentation of a transaction or event should include the entire process or life cycle of the transaction or event including:

- 1. Initiation or authorization of the transactions or event*
- 2. All aspects of the transaction while in process*
- 3. Final classification in a summary record*

Supporting documentation should include restaurant receipts, statement of business purpose, conference description, agency participants in meetings or conferences, and the proper authorization of the travel expense.

Also, the Commonwealth of Massachusetts Human Resources Division’s Redbook, entitled “Rules Governing Paid Leave and Other Benefits for Managers and Confidential Employees,” approved November 18, 1999, in Chapter 9, Travel Expenses and Meal Reimbursement, further sets forth and clarifies the official policy of the Commonwealth concerning travel. The department should have established appropriate internal controls and operating procedures

for credit card usage and travel costs, in order to demonstrate the reasonableness and need for these charges.

It should be noted that as of March 3, 2001, the department discontinued its use of its American Express corporate cards.

Recommendation

The department should implement the necessary internal controls to ensure that all transactions are clearly documented. Documentation of transactions should include initiation or authorization of the transaction, all aspects of the transaction while in process, and a final classification in a summary record. Furthermore, documentation of departmental travel and employee reimbursement policies should appear in management directives. The travel policies should include, at a minimum, allowable costs and reasonable maximum allowances for travel-related activities, and employee reimbursements should include a provision for adequate supporting evidence. As with all expenditures, the department should ensure that public funds are spent efficiently and effectively to meet the department's needs. Further, the department should obtain and verify documentation to demonstrate whether these credit card charges were for training purposes.

4. CLARIFICATION NEEDED OVER THE RETENTION OF CIVIL PROCESS FEES

During our review, we determined that civil process fees are collected and paid to sheriffs and deputy sheriffs for serving legal papers and documents, such as summons, subpoenas, complaints, and writs. In accordance with Chapter 29, Section 2, of the General Laws, all revenue collected on behalf of the Commonwealth should be deposited into the General Fund unless the funds are required, by law, to be deposited elsewhere. Therefore, civil process fees that are the responsibility of the department to collect may need to be deposited into the General Fund rather than being retained and expended for departmental civil process operations.

In accordance with Chapter 29, Section 2, of the General Laws, all revenue collected by the Commonwealth should be deposited into the General Fund unless funds are required by law

to be deposited into another fund. Chapter 29, Section 1, of the General Laws defines state revenue as:

All income from state taxes, state agency fees, fines, assessments, charges, and other departmental, revenues, retained revenues, federal grants, federal reimbursements, lottery receipts, court judgments and the earnings on such income.

In addition, Chapter 37, Section 22, of the General Laws requires that:

Each sheriff shall keep an account of all fees and money received by virtue of his office, and ... pay him [the county treasurer] the same.

Prior to the abolition of Essex County, the department forwarded receipts from civil process fees to the Essex County Treasurer, who set up civil process bank accounts to ensure legal compliance with Chapter 37, Section 22, of the General Laws. The civil process fees were deposited into a civil process (operating) checking account and, according to an Assistant Superintendent, were never deposited to the Essex County General Fund. Civil process fees collected were spent on civil process expenses. Moreover, the department did not need approval from the then Essex County Commissioners for expenditure of the civil process receipts because these amounts were not included in funds appropriated by the Essex County Commissioners.

Due to the abolition of Essex County effective June 30, 1999, the department opened new civil process bank accounts for handling its civil process operations to comply with Chapter 37, Section 22, of the General Laws, which requires the sheriff to keep an account of all fees received by virtue of his office.

Currently, the department receives civil process fees and retains and expends the funds from five different civil process bank accounts. The five civil process bank accounts are not recorded in the Commonwealth's Massachusetts Management Accounting and Reporting System (MMARS), and funds are not deposited with the Office of the State Treasurer. Below is the department's civil process operating fund statement for the period July 1, 2000 to April 30, 2001.

**Operating Fund Statement
July 1, 2000 to April 30, 2001**

Balance July 1, 2000			\$ 52,055
	Receipts:	\$603,313	
	Expenses:	<u>556,912</u>	<u>46,401</u>
Balance April 30, 2001			<u>\$ 98,456</u>

Presently, the department's main appropriation does not cover civil process division expenses, other than to pay for nine full-time department assigned staff, not including any deputy sheriffs who serve civil process. Accordingly, these nine full-time civil process staff members receive state benefits, including leave time, health insurance, and pension benefits. Therefore, the department's civil process system is not totally self-sufficient and has some beneficial civil process operating expenses paid from its state appropriation.

During our review, it was noted that legislation has been filed (Senate No. 152 and House No. 3423) to reform the civil process system. Senate No. 152 was discharged to the House Committee on Counties on March 29, 2001. House No. 3423 has been filed on behalf of the Middlesex Sheriff's Department's Civil Processing Division to have a retained revenue account established in MMARS for reporting and recording receipts, fees, and revenues collected by the Civil Processing Division. This bill was discharged to the House Committee on Counties on April 12, 2001. As of January 2002, these bills were still with the designated committees.

Recommendation

Officials should review the accounting, reporting, processing, and management of civil process fees for all Sheriff's Departments that have been transferred to the Commonwealth. If necessary, department officials should consult with the State Comptroller and the Secretary of Administration and Finance and file legislation so that all Commonwealth Sheriff's Departments uniformly handle civil process fees via a retained revenue account or some appropriate Commonwealth accounting mechanism that is in compliance with all applicable Commonwealth laws, rules, and regulations regarding state finance.